

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
2002 Biennial Review of)	WT Docket No. 02-310
Telecommunications Regulations)	
Within the Purview of the)	
Wireless Telecommunications Bureau)	

To: The Commission

COMMENTS

WebLink Wireless, Inc. and its licensee subsidiaries, PageMart II, Inc. and PageMart PCS, Inc. (together, "WebLink"), by its attorneys and pursuant to *Public Notice*, "The Commission Seeks Public Comment in the 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireless Telecommunications Bureau," FCC 02-264, released on September 26, 2002, hereby submits its Comments. The Commission has asked for suggestions on the elimination or modification of rules that might enable the Commission to operate more efficiently and effectively.

INTRODUCTION

WebLink is a Dallas, Texas-based company that offers wireless data services, including device-to-device ("2way") messaging, wireless e-mail and wireless transmission of machine originated data (telemetry). WebLink believes it is currently the

fourth largest wireless messaging carrier in the United States, based on 1,410,353 units in service as of March 31, 2002.

WebLink holds, by its licensee subsidiaries, both one-way and two-way narrowband PCS ("NPCS") licenses, issued under **Part 24** of the Commission's Rules. PageMart II, Inc. acquired a nationwide NPCS license, Call Sign KNKV210, on channel 11 (940.85 – 940.90 MHz) in FCC Auction 1 in 1994. PageMart PCS, Inc. acquired five regional narrowband licenses in Regions 1-5, Call Signs, KNKV212, KNKV218, KNKV224, KNKV230, KNKV236, respectively, on channel 12 (940.25 – 940.30 and 901.25 – 901.30 MHz), in Auction 3, also in 1994..

DISCUSSION

WebLink requests that the Commission review and modify §24.103(b) of its Rules, with regard to the ten year build-out for regional narrowband licenses. Specifically, it requests the following modification, which is indicated in bold:

Sec. 24.103 Construction requirements. (a) Nationwide narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 750,000 square kilometers or serve 37.5 percent of the U.S. population within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 1,500,000 square kilometers or serve 75 percent of the U.S. population within ten years of initial license grant date. Licensees may, in the alternative, provide substantial service to the licensed area as provided in paragraph (d) of this section. (b) Regional narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 150,000 square kilometers or serve 37.5 percent of the population of the service area within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 300,000 square kilometers or serve 75 percent of the service area population within ten years of initial license grant date. Licensees may, in the alternative, provide substantial service to the licensed area as provided in paragraph (d) of this section. **In**

the event that a licensee holds each of the regional narrowband PCS licenses on the same frequency, it may in the alternative, provide coverage pursuant to paragraph (a) of this section.

If a carrier holds licenses for the five contiguous regions on the same channel, it in essence holds a de facto nationwide authorization, regardless of whether the frequency is listed as a regional narrowband PCS license in §24.129(b).¹ Consequently, these five licenses comprise the service areas addressed by §24.102(a) and thus should be considered by the Commission to be a nationwide license.

Because this is a *de facto* nationwide system, the Commission should allow licensees such as PageMart PCS, Inc. to follow the build-out requirements of §24.103(a) in the interest of efficiency in the build-out of this frequency. To continue to use the strict regional benchmarks would constitute an inefficient approach to the final build-out of this national system.

The Commission focused on a re-evaluation of its rigid construction requirements in 2000. At that time, the Commission modified its position on strict enforcement of the construction requirements in §24.103 and adopted a substantial service requirement as an alternative.² Thus, the Commission permitted narrowband PCS licensees to meet their performance requirements through a demonstration of substantial service as an alternative to meeting strict coverage requirements under the existing Rules. Because the

¹ WebLink provides only nationwide service to all of its subscribers.

² *Second Report and Order and Second Further Notice of Proposed Rule Making*, 15 FCC Rcd. 10456, 10469 (2000).

Commission has already integrated some flexibility in the construction of narrowband PCS facilities, to make a modification to the regional license build-out rule to simply follow the narrowband nationwide build-out procedure for *de facto* nationwide licenses, is a reasonable request.

WebLink submits that modification of the rule will encourage a more efficient use of spectrum which will demonstrate responsiveness to existing and anticipated user requirements, i.e., market demands.³

Pursuant to Section 11 of the Communications Act of 1934, as amended, 47 U.S.C. §161, the Commission is required to review its regulations biennially. It is directed to repeal or modify any such regulations that it finds are no longer in the public interest.

Modification of §24.103 would better serve the public interest by permitting regional narrowband PCS licensees holding all five regional licenses on a common channel to configure their networks in the most efficient manner and in accordance with the current market demand. Further, the public will receive a direct benefit from any licensees' cost savings resulting from such licensees' reduced capital expenditures as a result of not being required to inefficiently build-out in areas where there is low public demand.

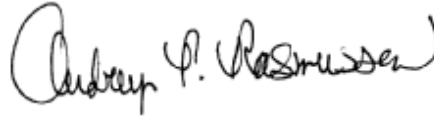
³ See *Advanced Train Control Systems*, 3 FCC Rcd 427 (1988), *IBM Research and Development*, 53 RR 2nd 677 (1983).

CONCLUSION

WebLink Wireless, Inc. submits that the public interest would be advanced if the Commission would modify Section 24.103 as described herein. It therefore requests that the Commission take its suggestion into consideration and incorporate it into its biennial review.

Respectfully submitted,

WEBLINK WIRELESS, INC.

A handwritten signature in black ink, appearing to read "Audrey P. Rasmussen". The signature is fluid and cursive, with the first name "Audrey" being more prominent.

David L. Hill
Audrey P. Rasmussen
ITS ATTORNEYS

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.
1120 20th Street, N.W.
Suite 700, North Building
Washington, D.C. 20036-3406
Telephone (202) 973-1200
Facsimile (202) 973-1212

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